



EXHIBIT A

GUIDE TO DEFAULT PROCEDURES FOR MOTIONS HEARD IN ROCHESTER AND WATKINS GLEN

DEFAULT	SERVICE REQUIREMENTS	PARTIES SERVED	SPECIAL REQUIREMENTS
<p>§362(d)-Motion to grant relief from the automatic stay</p> <p>Note: Requests in Cases under Chapter 11 & 12 must be submitted in regular motion format.</p>	<p>12 days prior to the return date and filed with the Clerk at least 7 days prior to the return date. Responses shall be in writing and filed not less than 3 days prior to the return date of the motion & pursuant to FRBP 9006(a).</p>	<p><u>Chapter 7 & 13</u></p> <p>Debtor, debtor's attorney & trustee.</p>	<p>(1) Cover sheet, (2) Copies of mortgage or lien documents and proof of lien perfection must be attached to motion involving secured property, (3) Default language must be included, (4) Copy of proposed order attached to motion as an exhibit, (5) Affidavit of service, and (6) An original order to be submitted for determination. A consent order may be submitted for proposed order, if provided to Court at least one day prior to the return date. Pursuant to 28 U.S.C. §1930(b), a fee is due upon the filing of a §362(d) motion.</p>

DEFAULT	SERVICE REQUIREMENTS	PARTIES SERVED	SPECIAL REQUIREMENTS
§363-Motion to authorize the use of cash collateral	15 days prior to the return date and filed with the Clerk at least 7 days prior to the return date. Responses shall be in writing and filed not less than 3 days prior to the return date of the motion & pursuant to FRBP 9006(a).	<u>Chapter 11</u> UST, trustee (if one is appointed) parties in interest, creditors' committee & its attorney, if any. Absent a committee-serve the 20 largest unsecured creditors.	(1) Affidavits of service shall be filed as quickly as possible to demonstrate that service on all parties entitled to notice has been made, (2) Default language must be included, (3) An original order to be submitted for determination, (4) A proposed order to be attached to the motion as an exhibit, and (5) Affidavit of service. A consent order may be submitted for proposed order, if provided to Court at least one day prior to the return date.

DEFAULT	SERVICE REQUIREMENTS	PARTIES SERVED	SPECIAL REQUIREMENTS
<p>§363(b)-Motion to use, sell or lease property of the estate</p> <p>Note: Requests by the moving party can be submitted in default or regular motion format. Do not include “default language” when using regular motion format.</p>	<p>20 days prior to the return date and filed with the Clerk at least 7 days prior to the return date. Responses shall be in writing and filed not less than 3 days prior to the return date of the motion & pursuant to FRBP 9006(a).</p>	<p><u>Chapter 7, 12 & 13</u></p> <p>Debtor, debtor’s attorney, UST, trustee & all creditors.</p> <p><u>Chapter 11</u></p> <p>Debtor, debtor’s attorney, UST, trustee (if one is appointed), attorney for creditors’ committee, if any, & all creditors.</p>	<p><u>Default Format:</u> (1) Default language must be included, (2) Proposed order to be attached to the motion as an exhibit, (3) An original order to be submitted for determination, and, (4) Affidavit of service. <u>All motion papers</u> must contain the following elements: <u>Private Sale:</u> (1) Description of property to be sold, (2) Name of purchaser & relationship to debtor, if any, and (3) The price received for each item, and (4) Terms of Sale. <u>Auction Sale:</u> (1) Name of auctioneer, (2) Date, time & location of auction, (3) General description of property being auctioned, and (4) Minimum bid, if any. A consent order may be submitted for proposed order, if provided to Court at least one day prior to the return date.</p>

DEFAULT	SERVICE REQUIREMENTS	PARTIES SERVED	SPECIAL REQUIREMENTS
§364-Motion to obtain credit	15 days prior to the return date and filed with the Clerk at least 7 days prior to the return date. Responses shall be in writing and filed not less than 3 days prior to the return date of the motion & pursuant to FRBP 9006(a).	<u>Chapter 11</u> UST, parties in interest, trustee (if one is appointed), creditors' committee & its attorney, if any. Absent a committee-serve the 20 largest unsecured creditors.	(1) Affidavits of service shall be filed as quickly as possible to demonstrate that service on all parties entitled to notice has been made, (2) Default language must be included, (3) An original order to be submitted for determination, (4) A proposed order to be attached to the motion as an exhibit, and (5) Affidavit of service. A consent order may be submitted for proposed order, if provided to Court at least one day prior to the return date.

DEFAULT	SERVICE REQUIREMENTS	PARTIES SERVED	SPECIAL REQUIREMENTS
§365-Motion to assume or reject an executory contract or unexpired lease of the debtor	12 days prior to the return date and filed with the Clerk at least 7 days prior to the return date. Responses shall be in writing and filed not less than 3 days prior to the return date of the motion & pursuant to FRBP 9006(a).	<p><u>Chapter 7, 12 & 13</u></p> <p>Debtor, debtor's attorney, UST, trustee & parties in interest.</p> <p><u>Chapter 11</u></p> <p>Debtor, debtor's attorney, trustee (if one is appointed), UST, creditors' committee & its attorney, if any. Absent a committee-serve the 20 largest unsecured creditors.</p>	(1) Default language must be included, (2) An original order to be submitted for determination, (3) A proposed order to be attached to the motion as an exhibit, and (4) Affidavit of service. A consent order may be submitted for proposed order, if provided to Court at least one day prior to the return.

DEFAULT	SERVICE REQUIREMENTS	PARTIES SERVED	SPECIAL REQUIREMENTS
§365(d)(4)-Motion to extend the time to assume or reject an executory contract of the debtor	12 days prior to the return date and filed with the Clerk at least 7 days prior to the return date. Responses shall be in writing and filed not less than 3 days prior to the return date of the motion & pursuant to FRBP 9006(a).	<p><u>Chapter 7, 12 & 13</u></p> <p>Debtor, debtor's attorney, UST, trustee & parties in interest.</p> <p><u>Chapter 11</u></p> <p>Debtor, debtor's attorney, trustee (if one is appointed), UST, creditors' committee & its attorney, if any. Absent a committee-serve the 20 largest unsecured creditors.</p>	(1) Default language pursuant must be included, (2) An original order to be submitted for determination, (3) A proposed order to be attached to the motion as an exhibit, and (4) Affidavit of service. A consent order may be submitted for proposed order, if provided to Court at least one day prior to the return date.

DEFAULT	SERVICE REQUIREMENTS	PARTIES SERVED	SPECIAL REQUIREMENTS
§506(a)-Motion to determine status of secured claim	12 days prior to the return date and filed with the Clerk at least 7 days prior to the return date. Responses shall be in writing and filed not less than 3 days prior to the return date of the motion & pursuant to FRBP 9006(a).	<u>Chapter 13</u> Debtor, debtor's attorney, holder of lien to be avoided, lienholder's attorney, UST & trustee.	(1) Cover sheet, (2) A signed appraisal, a letter of valuation or a market analysis of real property as an exhibit to the motion, (3) Default language, (4) A proposed order as an exhibit to the motion, (5) Affidavit of service, (6) Proof of balance of superior liens, and (7) An original proposed order to be submitted for determination. A consent order may be submitted for proposed order, if provided to Court at least one day prior to the return date.
§522-Motion objecting to debtor's claimed exemption	12 days prior to the return date & filed with the Clerk at least 7 days prior to the return date. Responses shall be in writing and filed not less than 3 days prior to the return date of the motion & pursuant to FRBP 9006(a).	<u>Chapter 7, 12 & 13</u> Debtor, debtor's attorney, trustee & UST.	(1) Default language must be included, (2) An original order to be submitted for determination, (3) A proposed order to be attached to the motion as an exhibit, and (4) Affidavit of service. A consent order may be submitted for proposed order, if provided to Court at least one day prior to the return date.

DEFAULT	SERVICE REQUIREMENTS	PARTIES SERVED	SPECIAL REQUIREMENTS
§522(f)-Motion for avoiding the fixing of a lien on an interest of the debtor in property to the extent that such lien impairs an exemption	12 days prior to the return date & filed with the Clerk at least 7 days prior to the return date. Responses shall be in writing and filed not less than 3 days prior to the return date of the motion & pursuant to FRBP 9006(a).	<u>Chapter 7, 12 & 13</u> Debtor, debtor's attorney, any other judgment creditor which is a party to the motion and its attorney, the attorney for any judgment creditor at the time the judgment was taken, UST & trustee.	(1) Cover sheet, (2) A signed appraisal, a letter of valuation, or a market analysis of real property as an exhibit to the motion, (3) Default language must be included, (4) A proposed order attached to the motion as an exhibit, (5) Affidavit of service, and (6) An original order to be submitted for determination. A consent order may be submitted for proposed order, if provided to Court at least one day prior to the return date.
§523-Motion to extend the time to file complaints to have the Court determine the dischargeability of a debt	12 days prior to the return date & filed with the Clerk at least 7 days prior to the return date. Responses shall be in writing and filed not less than 3 days prior to the return date of the motion & pursuant to FRBP 9006(a).	<u>Chapter 7</u> Debtor, debtor's attorney, UST & trustee.	(1) Papers are to clearly set forth detailed facts so that the Court can make the required affirmative finding of "cause", (2) Default language must be included, (3) An original order to be submitted for determination, (4) A proposed order to be attached to the motion as an exhibit, and (5) Affidavit of service. A consent order may be submitted for proposed order, if provided to Court at least one day prior to the return date.

DEFAULT	SERVICE REQUIREMENTS	PARTIES SERVED	SPECIAL REQUIREMENTS
§542-Motion by trustee to compel turnover of property of estate	12 days prior to the return date & filed with the Clerk at least 7 days prior to the return date. Responses shall be in writing and filed not less than 3 days prior to the return date of the motion & pursuant to FRBP 9006(a).	<u>Chapter 7, 12 & 13</u> Debtor, debtor's attorney, UST & parties in interest.	(1) Default language must be included, (2) An original order to be submitted for determination, (3) A proposed order to be attached to the motion as an exhibit, and (4) Affidavit of service. A consent order may be submitted for proposed order, if provided to Court at least one day prior to the return date.

DEFAULT	SERVICE REQUIREMENTS	PARTIES SERVED	SPECIAL REQUIREMENTS
§554-Motion for abandonment of property	12 days prior to the return date & filed with the Clerk at least 7 days prior to the return date. Responses shall be in writing and filed not less than 3 days prior to the return date of the motion & pursuant to FRBP 9006(a).	<p><u>Chapter 7, 12 & 13</u></p> <p>Trustee & UST. Should the movant be a creditor, service must also be made upon the debtor, debtor's attorney.</p> <p><u>Chapter 11</u></p> <p>UST, trustee (if one is appointed) creditor's committee and its attorney, if any. Absent a committee-serve the 20 largest unsecured creditors. Should the movant be a creditor, service must also be made upon the debtor, debtor's attorney.</p>	(1) Cover sheet, (2) Copies of mortgage or lien documents and proof of lien perfection, (3) Basis for market value if other than an appraisal, letter valuation, market analysis, NADA value or other source of value which has been agreed to by the trustee, (4) Default language must be included, (5) A proposed order attached to the motion papers as an exhibit, (6) Affidavit of service, and (7) an original order to be submitted for determination. A consent order may be submitted for proposed order, if provided to Court at least one day prior to the return date. Pursuant to 28 U.S.C. §1930(b), a fee is due upon the filing of a §554 motion.

DEFAULT	SERVICE REQUIREMENTS	PARTIES SERVED	SPECIAL REQUIREMENTS
§554(c)-Motion by trustee excepting property of the estate from abandonment	12 days prior to the return date & filed with the Clerk at least 7 days prior to the return date. Responses shall be in writing and filed not less than 3 days prior to the return date of the motion & pursuant to FRBP 9006(a).	<u>Chapter 7</u> Debtor, debtor's attorney, UST & parties in interest.	(1) Default language must be included, (2) An original order to be submitted for determination, (3) A proposed order to be attached to the motion as an exhibit, and (4) Affidavit of service. A consent order may be submitted for proposed order, if provided to Court at least one day prior to the return date.
§707(a)(1)-Motion by trustee to dismiss a case for failure of debtor to appear at a meeting of creditors	20 days prior to the return date & filed with the Clerk at least 24 days prior to the return date. Responses must be in writing and filed not less than 3 days prior to the return date of the motion pursuant to FRBP 9006(a)	<u>Chapter 7</u> Debtor, debtor's attorney, UST & all creditors	(1) Default language must be included, (2) An original order to be submitted for determination, (3) A proposed order as an attachment. A consent order may be submitted for proposed order, if provided to Court at least one day prior to the return date.

DEFAULT	SERVICE REQUIREMENTS	PARTIES SERVED	SPECIAL REQUIREMENTS
§722-Motion to redeem tangible personal property intended for personal, family or household use from a lien securing a dischargeable consumer debt	12 days prior to the return date & filed with the Clerk at least 7 days prior to the return date. Responses shall be in writing and filed not less than 3 days prior to the return date of the motion & pursuant to FRBP 9006(a).	<u>Chapter 7</u> Debtor, debtor's attorney, any other creditor which is a party to the motion and its attorney, UST & trustee.	(1) Cover sheet, (2) Proof of value in the form of a signed appraisal or letter of valuation, and proof of perfection, if applicable, must be attached to the motion, (3) Default language must be included, (4) A proposed order as an exhibit to the motion, (5) Affidavit of service, and (6) An original order to be submitted for determination. A consent order may be submitted for proposed order, if provided to Court at least one day prior to the return date.
§727-Motion to extend the time to file complaints objecting to the discharge of the debtor	12 days prior to the return date & filed with the Clerk at least 7 days prior to the return date. Responses shall be in writing and filed not less than 3 days prior to the return date of the motion & pursuant to FRBP 9006(a).	<u>Chapter 7</u> Debtor, debtor's attorney, UST & trustee.	(1) Papers are to clearly set forth detailed facts so that the Court can make the required affirmative finding of "cause", (2) Default language must be included, (3) An original order to be submitted for determination, (4) A proposed order to be attached to the motion as an exhibit, and (5) Affidavit of service. A consent order may be submitted for proposed order, if provided to Court at least one day prior to the return date.

DEFAULT	SERVICE REQUIREMENTS	PARTIES SERVED	SPECIAL REQUIREMENTS
§1112-Motion to convert or dismiss	20 days prior to the return date and filed with the Clerk at least 7 days prior to the return date. Responses shall be in writing and filed not less than 3 days prior to the return date of the motion & pursuant to FRBP 9006(a).	<u>Chapter 11</u> Debtor, debtor's attorney, trustee (if one is appointed), UST, equity security holders, all creditors & attorney for creditors' committee, if any.	(1) Default language must be included, (2) An original order to be submitted for determination, (3) A proposed order to be attached to the motion as an exhibit, and (4) Affidavit of service. A consent order may be submitted for proposed order, if provided to Court at least one day prior to the return date. Pursuant to 28 U.S.C. §1930(b), a conversion fee is due upon the filing of a motion to convert a Chapter 11 to Chapter 7. No fee is due if the request is to convert to a Chapter 12 or Chapter 13.
§1121(d)-Motion to extend the exclusive time within which a debtor in possession must file a plan and disclosure statement	12 days prior to the return date & filed with the Clerk at least 7 days prior to the return date. Responses shall be in writing and filed not less than 3 days prior to the return date of the motion & pursuant to FRBP 9006(a).	<u>Chapter 11</u> UST, trustee (if one is appointed), creditors' committee & its attorney, if any. Absent a committee-serve the 20 largest unsecured creditors.	(1) Default language must be included, (2) An original order to be submitted for determination, and (3) A proposed order to be attached to the motion as an exhibit, and (4) Affidavit of service. A consent order may be submitted for proposed order, if provided to Court at least one day prior to the return date.

DEFAULT	SERVICE REQUIREMENTS	PARTIES SERVED	SPECIAL REQUIREMENTS
§1221-Motion to extend the time to file a plan	12 days prior to the return date & filed with the Clerk at least 7 days prior to the return date. Responses shall be in writing and filed not less than 3 days prior to the return date of the motion & pursuant to FRBP 9006(a).	<u>Chapter 12</u> UST & trustee.	(1) Default language must be included, (2) An original order to be submitted for determination, (3) A proposed order to be attached to the motion as an exhibit, and (4) Affidavit of service. A consent order may be submitted for proposed order, if provided to Court at least one day prior to the return date.

DEFAULT	SERVICE REQUIREMENTS	PARTIES SERVED	SPECIAL REQUIREMENTS
§1228(b)-Motion for hardship discharge	12 days prior to the return date & filed with the Clerk at least 7 days prior to the return date. Responses shall be in writing and filed not less than 3 days prior to the return date of the motion & pursuant to FRBP 9006(a).	<u>Chapter 12</u> Trustee, UST & all creditors.	(1) Default language must be included, (2) An original order to be submitted for determination, and (3) A proposed order to be attached to the motion as an exhibit, (4) Affidavit of service. The order shall incorporate <u>three elements</u> : (1) Language that the last day for filing complaints under 11 U.S.C. §1228(c) objecting to the discharge of particular debts shall be thirty (30) days from the date of the order and if no complaint is filed the debts may be discharged, (2) Reaffirmation agreements must be filed within sixty (60) days of the last day fixed for filing complaints against the discharge, and (3) If the movant is a debtor(s) not represented by counsel, the order shall also contain language that should the debtor(s) plan to file a reaffirmation agreement, a request for a §524(d) hearing along with the reaffirmation agreement must be filed within sixty (60) days of the last day fixed for filing complaints against the discharge.

DEFAULT	SERVICE REQUIREMENTS	PARTIES SERVED	SPECIAL REQUIREMENTS
§1229 & 1329-Motions to modify the plan	20 days prior to the return date and filed with the Clerk at least 7 days prior to the return date. Responses shall be in writing and filed not less than 3 days prior to the return date and pursuant to FRBP 9006(a).	<u>Chapter 12 & 13</u> Trustee & all creditors.	(1) Cover sheet must accompany motion & also be served on all creditors & the trustee, (2) Default language must be included, (3) Full application must be served upon any affected secured creditor, trustee, debtor, and any creditor or their attorney who appeared at the §341 meeting or confirmation hearing, (4) Additional professional fee requests should be addressed in the motion and indicated whether or not fees are to be paid within or outside the plan, (5) The amended budget is to be contained with the motion, (6) An original order to be submitted for determination, (7) A proposed order to be attached to the motion as an exhibit, and (8) Affidavit of service. The order shall incorporate <u>four elements</u> : (1) Language that the plan has been confirmed, (2) Changes made to the plan, (3) Attorney's fees to be paid through the plan and, (4) A statement acknowledging that the remaining provisions of the original plan are still in effect. A consent order may be submitted for proposed order, if provided to Court at least one day before the return date.

DEFAULT	SERVICE REQUIREMENTS	PARTIES SERVED	SPECIAL REQUIREMENTS
§1301-Motion for Relief from Stay of Action against Co-Debtor	20 days prior to the return date and filed with the Clerk at least 7 days prior to the return date. Responses shall be in writing and filed not less than 3 days prior to the return date and pursuant to FRBP 9006(a).	<u>Chapter 13</u> Debtor, debtor's attorney, trustee & co-debtor.	(1) Default language must be included, (2) Proposed order to be attached to the motion as an exhibit, (3) An original order to be submitted for determination, and (4) Affidavit of service. A consent order may be submitted for proposed order, if provided to Court at least one day prior to the return date.

DEFAULT	SERVICE REQUIREMENTS	PARTIES SERVED	SPECIAL REQUIREMENTS
§1328(b)-Motions for hardship discharge	12 days prior to the return date & filed with the Clerk at least 7 days prior to the return date. Responses shall be in writing and filed not less than 3 days prior to the return date of the motion & pursuant to FRBP 9006(a).	<u>Chapter 13</u> Trustee, UST & all creditors.	(1) Default language must be included, (2) An original order to be submitted for determination, (3) A proposed order to be attached to the motion as an exhibit, and (4) Affidavit of service. The order shall incorporate <u>three elements</u> : (1) Language that the last day for filing complaints under 11 U.S.C. §1328(c),(d) objecting to the discharge of particular debts shall be thirty (30) days from the date of the order, and if no complaint is filed the debts may be discharged, (2) Reaffirmation agreements must be filed within sixty (60) days of the last day fixed for filing complaints against the discharge, and (3) If the movant is a debtor(s) not represented by counsel, the order shall also contain language that should the debtor(s) plan to file a reaffirmation agreement, a request for a §524(d) hearing along with the reaffirmation agreement must be filed within sixty (60) days of the last day fixed for filing complaints against the discharge.

DEFAULT	SERVICE REQUIREMENTS	PARTIES SERVED	SPECIAL REQUIREMENTS
FRBP 1014(a)-Motion to change venue	12 days prior to the return date & filed with the Clerk at least 7 days prior to the return date. Responses shall be in writing and filed not less than 3 days prior to the return date of the motion & pursuant to FRBP 9006(a).	<u>Chapter 7, 12 & 13</u> Trustee, UST & all creditors. <u>Chapter 11</u> Trustee (if one is appointed), UST, all creditors & attorney for creditors' committee, if any.	(1) Default language must be included, (2) An original order to be submitted for determination, (3) A proposed order to be attached to the motion as an exhibit, and (4) Affidavit of service. A consent order may be submitted for proposed order, if provided to Court at least one day prior to the return date.

DEFAULT	SERVICE REQUIREMENTS	PARTIES SERVED	SPECIAL REQUIREMENTS
<p>FRBP 2002(a)(3)-Motion to approve the compromise of a controversy in an adversary proceeding</p> <p>Note: The below intervention language must be included in Notices of Hearing to Compromise or Settle in a §727 Adversary Proceeding pursuant to FRBP 7024—“Creditors may elect to continue the adversary proceeding to deny the discharge of the debtor(s) under 11 U.S.C. §727 by filing a notice of intervention with the Clerk’s Office within 3 days of the hearing date. Absent intervention, an Order will be signed approving the</p>	<p>20 days prior to the return date and filed with the Clerk at least 7 days prior to the return date. Responses shall be in writing and filed not less than 3 days prior to the return date and pursuant to FRBP 9006(a).</p>	<p><u>Chapter 7, 12 & 13</u></p> <p>Plaintiff, plaintiff’s attorney, defendant, defendant’s attorney, UST, debtor, debtor’s attorney, trustee & all creditors.</p> <p><u>Chapter 11</u></p> <p>Plaintiff, plaintiff’s attorney, defendant, defendant’s attorney, UST, debtor, debtor’s attorney, trustee (if one is appointed), all creditors & attorney for creditors’ committee, if any.</p>	<p>(1) Default language must be included, (2) An original order to be submitted for determination, (3) A proposed order to be attached to the motion as an exhibit, and (4) Affidavit of service. A consent order may be submitted for proposed order, if provided to Court at least one day prior to the return date.</p>

DEFAULT	SERVICE REQUIREMENTS	PARTIES SERVED	SPECIAL REQUIREMENTS
FRBP 2002(a)(3)-Motion to approve the compromise of a controversy in a bankruptcy proceeding	20 days prior to the return date and filed with the Clerk at least 7 days prior to the return date. Responses shall be in writing and filed not less than 3 days prior to the return date and pursuant to FRBP 9006(a).	<p><u>Chapter 7</u></p> <p>Debtor, debtor's attorney, UST, trustee, all creditors.</p> <p><u>Chapter 11</u></p> <p>Debtor, debtor's attorney, UST, attorney for creditors' committee, if any, all creditors.</p>	(1) Default language must be included, (2) An original order to be submitted for determination, (3) A proposed order to be attached to the motion as an exhibit, and (4) Affidavit of service. A consent order may be submitted for proposed order, if provided to Court at least one day prior to the return date.

DEFAULT	SERVICE REQUIREMENTS	PARTIES SERVED	SPECIAL REQUIREMENTS
FRBP 3007-Objection to claims	30 days prior to the return date pursuant to FRBP 3007. Responses shall be in writing and served not less than 3 days prior to the return date and pursuant to FRBP 9006(a).	<p><u>Chapter 7, 12 & 13</u></p> <p>Debtor, debtor's attorney, trustee, UST, claimant, claimant's attorney (if known) or person designated as power of attorney.</p> <p><u>Chapter 11</u></p> <p>Debtor, debtor's attorney, trustee (if one is appointed), UST, claimant, claimant's attorney (if known) or person designated as power of attorney, creditors' committee and its attorney, if any. Absent a creditors' committee—serve the 20 largest unsecured creditors.</p>	(1) Default language must be included, (2) Only one claim objection will be allowed per notice or order unless the objecting party is granted permission by the presiding judge to use another format, (3) The objection to claim shall include a copy of the proposed order on the reverse side of the objection and, (4) Affidavit of service. A hearing will always be held with regard to an objection to the claim of the United States unless the United States consents to a waiver of hearing. A consent order may be submitted for proposed order, if provided to Court at least one day prior to the return date.

DEFAULT	SERVICE REQUIREMENTS	PARTIES SERVED	SPECIAL REQUIREMENTS
FRBP 3007-Objection to claims (cont)	See previous page	<p>Note: If IRS is the claimant, service shall be upon IRS, the Attorney General & U.S. Attorney.</p> <p>If NYS is the claimant, service shall be upon NYS Dept. of Taxation & Finance in Albany & NYS Dept. of Taxation & Finance in Rochester.</p>	See previous page

DEFAULT	SERVICE REQUIREMENTS	PARTIES SERVED	SPECIAL REQUIREMENTS
<p>FRBP 7024-Motion to Intervene</p> <p>Note: The below intervention language must be included in Notices of Hearing to Compromise or Settle in a §727 Adversary proceeding pursuant to FRBP 7024: “Creditors may elect to continue the adversary proceeding to deny the discharge of the debtor(s) under 11 U.S.C. §727 by filing a notice of intervention with the Clerk’s Office within 3 days of the hearing date. Absent intervention, an Order will be signed</p>	<p>12 days prior to the return date & filed with the Clerk at least 7 days prior to the return date. Responses shall be in writing and filed not less than 3 days prior to the return date of the motion & pursuant to FRBP 9006(a).</p>	<p><u>Chapter 7, 12 & 13</u></p> <p>Plaintiff, plaintiff’s attorney, defendant, defendant’s attorney, UST, debtor, debtor’s attorney, trustee & all creditors.</p> <p><u>Chapter 11</u></p> <p>Plaintiff, plaintiff’s attorney, defendant, defendant’s attorney, UST, debtor, debtor’s attorney, trustee (if one is appointed), all creditors & attorney for creditors’ committee, if any.</p>	<p>(1) Default language must be included, (2) Propose order attached to the motion as an exhibit, (3) An original order to be submitted for determination, and (4) Affidavit of service. A consent order may be submitted for proposed order, if provided to Court at least one day prior to the return date.</p>

DEFAULT	SERVICE REQUIREMENTS	PARTIES SERVED	SPECIAL REQUIREMENTS
FRBP 7055-Motion for entry of default judgment against the debtor	12 days prior to the return date & filed with the Clerk at least 7 days prior to the return date. Responses shall be in writing and filed not less than 3 days prior to the return date of the motion & pursuant to FRBP 9006(a).	<p><u>Chapter 7, 12 & 13</u></p> <p>Debtor, debtor's attorney, UST, trustee, defendant & defendant's attorney.</p> <p><u>Chapter 11</u></p> <p>Debtor, debtor's attorney, UST, trustee (if one is appointed) defendant & defendant's attorney.</p>	(1) Default language must be included, (2) Documentation in support of request, (3) Judgment by Default (Form D-3), (4) Proposed order for the entry of default judgment (items #2, #3 & #4) are to be attached to the notice of motion as exhibits), (5) Originals of #3 & #4 must be submitted separately for determination, (6) Affidavit of service, and (7) Four copies of the original Order for the Entry of Judgment.

DEFAULT	SERVICE REQUIREMENTS	PARTIES SERVED	SPECIAL REQUIREMENTS
Local Rule 2091-A(1)- Motion to withdraw as an attorney	12 days prior to the return date & filed with the Clerk at least 7 days prior to the return date. Responses shall be in writing and filed not less than 3 days prior to the return date of the motion & pursuant to FRBP 9006(a).	<u>Chapter 7, 12 & 13</u> Debtor, trustee & UST. <u>Chapter 11</u> Debtor, trustee (if one is appointed), UST & attorney for creditors' committee, if any.	(1) Application should set forth sufficient detail as to why such a withdrawal will not substantially prejudice the client, (2) Default language must be included, (3) An original order to be submitted for determination, (4) A proposed order to be attached to the motion as an exhibit, and (5) Affidavit of service. A consent order may be submitted for proposed order, if provided to Court at least one day prior to the return date.

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NEW YORK**

**REVISED COMMON DEFAULT
STATEMENT AND EXPANSION OF THE**

**STANDING
ORDER**

**DEFAULT PROCEDURES IN ROCHESTER
AND WATKINS GLEN TO INCLUDE §506(a)
VALUATION MOTIONS**

(A) REVISED “COMMON DEFAULT STATEMENT”

The Common Default Statement is revised to further detail the service of opposing papers. The “Revised Common Default Statement” supersedes the common default statement set forth in the Court’s Standing Order dated August 8, 2000.

- (1) Motion papers subject to the Court’s “default procedures” filed on or after **December 21, 2001** shall include the following Revised Common Default Statement in **bold print**:

“PURSUANT TO FRBP 9014 AND THE STANDING ORDERS IMPLEMENTING DEFAULT PROCEDURES IN ROCHESTER AND WATKINS GLEN; IF YOU INTEND TO OPPOSE THE MOTION, AT A MINIMUM, YOU MUST SERVE: (1) THE MOVANT AND MOVANT’S COUNSEL, AND (2) IF NOT THE MOVING PARTY (A) THE DEBTOR AND DEBTOR’S COUNSEL; (B) IN A CHAPTER 11 CASE, THE CREDITORS’ COMMITTEE AND ITS ATTORNEY, OR IF THERE IS NO COMMITTEE, THE 20 LARGEST CREDITORS; AND (C) ANY TRUSTEE. IN ADDITION, YOU MUST FILE WITH THE CLERK OF THE BANKRUPTCY COURT WRITTEN OPPOSITION TO THE MOTION NO LATER THAN THREE (3) BUSINESS DAYS PRIOR TO THE RETURN DATE OF THE MOTION PURSUANT TO FRBP 9006(a). IN THE EVENT THAT NO WRITTEN OPPOSITION IS SERVED AND FILED, NO HEARING ON THE MOTION WILL BE HELD ON THE RETURN DATE AND THE COURT WILL CONSIDER THE MOTION UNOPPOSED.”

- (2) With the exception of the revision of the “Common Default Statement” and the addition of a new default procedure for §506(a) valuation motions, the requirements and procedures specific to each default motion type recited in Standing Orders dated August 5, 1992, March 9, 1993 (Revised April 13, 1993), May 20, 1993, July 25, 1994, July 26, 1995, June 1, 1998, June 29, 1999, and August 8, 2000 remain unchanged.

**(C) EXPANSION OF DEFAULT PROCEDURES IN ROCHESTER AND WATKINS
GLEN**

The existing default procedures in Rochester and Watkins Glen are hereby expanded to include valuation motions to determine the status of a secured claim.

- (1) Motion papers filed on or after **December 21, 2001** shall be served on the parties as set forth in Exhibit “A” (attached).
- (2) At least one day prior to the return date of the motion, the Court will accept a consent order and a request to substitute that consent order for the order which accompanied the original motion papers. A cover letter must accompany a substitute consent order. The letter must clearly identify in **bold** the **return date** and **time** of the motion.

- (3) As a result of the Decision by the Honorable John C. Ninfo, II in In re Jeffries, (Case No. 98-20500)(9/28/89, Ninfo, J.), permitting the valuation of a secured claim pursuant to 11 U.S.C. §506(a), in Chapter 13 cases, to be made by motion as a contested matter in the first instance, subject to conversion to an adversary proceeding if appropriate, and the Decision of the Second Circuit in Pond v. Farm Specialist Realty, 252 F.3d 122 (2nd Cir. 2001), it is mandatory that §506(a) valuation motions be brought under the “**default**” procedure unless:
- (a) The movant requests a waiver of the default procedure requirement and the Court grants such request, or
 - (b) The matter is brought on shortened time, in which case the order shortening time shall specifically provide that the matter will be placed on the Court’s regularly scheduled motion calendar at a date and time approved by the Court.
- (4) All responses, including opposition or withdrawal, must clearly identify in **bold** the **return date** and **time** of the motion.

(D) **EXHIBIT “A” - GUIDE TO DEFAULT PROCEDURES FOR MOTIONS HEARD IN ROCHESTER AND WATKINS GLEN**

Exhibit “A” provides a listing of the requirements and procedures for each type of motion covered by the Court’s default procedures and may be revised by the Court from time to time. The only new information in Exhibit “A” is that pertaining to §506(a) motions.

(E) **EXHIBIT “B” - §506(a) MOTION COVER SHEET**

The “Motion Cover Sheet” assists the Court in its review of the motion. The Cover Sheet **MUST** accompany every §506(a) motion and must be served on all parties.

IT IS SO ORDERED.

Dated: November 26, 2001

/s/

Honorable John C. Ninfo, II
Chief United States Bankruptcy Judge

/s/

Honorable Michael J. Kaplan
United States Bankruptcy Judge

/s/

Honorable Carl L. Bucki
United States Bankruptcy Judge

DEFAULT	SERVICE REQUIREMENTS	PARTIES SERVED	SPECIAL REQUIREMENTS
§554(c)-Motion by trustee excepting property of the estate from abandonment	12 days prior to the return date & filed with the Clerk at least 7 days prior to the return date. Responses shall be in writing and filed not less than 3 days prior to the return date of the motion & pursuant to FRBP 9006(a).	<u>Chapter 7</u> Debtor, debtor's attorney, UST & parties in interest.	(1) Default language must be included, (2) An original order to be submitted for determination, (3) A proposed order to be attached to the motion as an exhibit, and (4) Affidavit of service. A consent order may be submitted for proposed order, if provided to Court at least one day prior to the return date.
§707(a)(1)-Motion by trustee to dismiss a case for failure of debtor to appear at a meeting of creditors	20 days prior to the return date & filed with the Clerk at least 24 days prior to the return date. Responses must be in writing and filed not less than 3 days prior to the return date of the motion pursuant to FRBP 9006(a)	<u>Chapter 7</u> Debtor, debtor's attorney, UST & all creditors	(1) Default language must be included, (2) An original order to be submitted for determination, (3) A proposed order as an attachment. A consent order may be submitted for proposed order, if provided to Court at least one day prior to the return date.